

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 631

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING THE RURAL HEALTH CARE PROVIDER ACCESS ACT; PROVIDING CRIMINAL AND CIVIL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Insurance Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE. -- This act may be cited as the "Rural Health Care Provider Access Act". "

Section 2. A new section of the New Mexico Insurance code is enacted to read:

"[NEW MATERIAL] DEFINITIONS. -- As used in the Rural Health Care Provider Access Act:

A. "health care facility" means an institution located outside the boundaries of a class A county that provides health care services, and includes a hospital or other

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 licensed inpatient center, an ambulatory surgical or treatment
2 center, a skilled nursing center, a residential treatment
3 center, a home health agency, a diagnostic, laboratory or
4 imaging center and a rehabilitation or other therapeutic health
5 setting;

6 B. "health care insurer" means a person that has a
7 valid certificate of authority in good standing pursuant to the
8 Insurance Code to act as an insurer, health maintenance
9 organization, nonprofit health care plan or prepaid dental
10 plan;

11 C. "health care professional" means a physician,
12 pharmacist or other health care practitioner:

13 (1) who is licensed, certified or otherwise
14 authorized by the state to provide health care services or
15 medical equipment consistent with state law; and

16 (2) whose principal practice is located
17 outside the boundaries of a class A county;

18 D. "health care provider" means a health care
19 professional, health care facility or supplier of medical
20 equipment;

21 E. "health care services" includes physical health
22 services or community-based mental health or developmental
23 disability services;

24 F. "medical equipment" mean any device, item or
25 supply furnished to a patient, whether on a rental or purchase

. 142604. 3

underscored material = new
[bracketed material] = delete

1 basis, that has been prescribed by a health care provider for
2 use in a patient's home or long-term care setting to meet the
3 patient's medical and physical needs in connection with a
4 medical condition; and

5 G. "provider service network" means two or more
6 health care providers affiliated for the purpose of providing
7 health care services to enrollees on a capitated or similar
8 prepaid flat-rate basis. "

9 Section 3. A new section of the New Mexico Insurance Code
10 is enacted to read:

11 "[NEW MATERIAL] RURAL HEALTH CARE PROVIDER RULE. --A health
12 care insurer or provider service network shall not:

13 A. deny a health care provider the right to
14 participate as a provider under a policy, plan or certificate,
15 if the type of services or medical equipment offered by the
16 health care provider are covered, under the same terms and
17 conditions of the policy, plan or certificate as those offered
18 to any other health care provider;

19 B. prevent a person who is a party to or a member
20 of a policy, plan or certificate from choosing a health care
21 provider to furnish the health care services or medical
22 equipment offered under the policy, plan or certificate under
23 the same terms and conditions of the policy, plan or
24 certificate as those offered to any other health care provider;
25 or

. 142604. 3

underscored material = new
[bracketed material] = delete

1 C. permit or mandate any difference in coverage or
2 impose any different conditions or disincentives that would
3 cause a party to or a member of a policy, plan or certificate
4 to choose one health care provider over another for health care
5 services or medical equipment that are covered under the
6 policy, plan or certificate. "

7 Section 4. A new section of the New Mexico Insurance Code
8 is enacted to read:

9 "[NEW MATERIAL] CRIMINAL PENALTY AND ENFORCEMENT. --

10 A. A health care insurer or provider service
11 network that violates the provisions of the Rural Health Care
12 Provider Access Act is guilty of a misdemeanor and shall be
13 punished by a fine of not less than one hundred dollars (\$100)
14 and not more than one thousand dollars (\$1,000).

15 B. Each violation of the provisions of the Rural
16 Health Care Provider Access Act, as to each health care
17 provider and each refusal to comply, constitutes a separate and
18 distinct offense. "

19 Section 5. A new section of the New Mexico Insurance Code
20 is enacted to read:

21 "[NEW MATERIAL] PRIVATE CIVIL ENFORCEMENT. --

22 A. A person who suffers a loss as a result of a
23 violation of a provision in the Rural Health Care Provider
24 Access Act may bring an action to recover actual damages or the
25 sum of one hundred dollars (\$100), whichever is greater. When

. 142604. 3

underscored material = new
[bracketed material] = delete

1 the trier of fact finds that the party charged with the
2 violation acted willfully, the court may award up to three
3 times actual damages or three hundred dollars (\$300), whichever
4 is greater, to the party complaining of the violation.

5 B. A person likely to be injured by a violation of
6 the Rural Health Care Provider Access Act may seek and be
7 granted an injunction on terms that the court considers
8 reasonable. Proof of monetary damage or intent to violate a
9 right is not required.

10 C. The court shall award attorney fees and costs to
11 the party complaining of a violation of the Rural Health Care
12 Provider Access Act if the party prevails substantially in the
13 lawsuit.

14 D. The relief provided in this section is in
15 addition to other remedies available against the same conduct
16 under the common law or other statutes of this state.

17 E. In a class action filed pursuant to this
18 section, the court may award damages to the named plaintiffs as
19 provided in this section and may award members of the class the
20 actual damages suffered by each member of the class as a result
21 of the unlawful practice. "

22 Section 6. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2003.